THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.1269 of 2007

Date:01.02.2007

Between:

Smt.K.Suvarnamma and others.

.. PETITIONERS

AND

The A.P. State Wakf Board and others.

..RESPONDENTS

ORDER:

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This writ petition is filed challenging the notice, dated 30.12.2006, issued by the District Collector, Kurnool, the second respondent herein.

The petitioners state that they are the owners and possessors of various extents of land in Sy.No.126 etcetera of Kowlur Village of Panyam Mandal, Kurnool District. Through the impugned notice, the second respondent required the petitioners herein to attend an enquiry scheduled to be held on 09.01.2007 at Nandyal. The purpose is said to be to resolve the disputes existing between the Managing Committee of a Wakf, and the purchasers of the land.

The petitioners state that the second respondent issued notice at the instance of the first respondent and it is absolutely without any basis and jurisdiction. They also contend that the first respondent had already filed O.S.No.136 of 2006 in the A.P. State Wakf

Tribunal (for short 'the Tribunal') against them in respect of the same land and the impugned notice is nothing but a devise to pressurize them to defeat their rights.

Sri E.Ayyapu Reddy, the learned senior counsel for the petitioners submits that the notice does not make reference to the provisions of any enactment and it is absolutely without jurisdiction.

The learned standing counsel for the Wakf Board and the learned Government Pleader for Revenue, on the other hand, submit that the second respondent had initiated steps to avoid the uncertainty and law and order problem in the District. They contend that mere pendency of a suit does not take away the general powers of superintendence of the District Collector. They raised an objection as to the maintainability of the writ petition against a notice.

Generally, this Court would be loath to interfere with the notice issued by the authorities concerned. The reluctance would be patent where the notice is traced to any specific provision of an enactment. The reason is that once law confers power on an authority to decide any issue, such an authority must be accorded freedom to decide it, according to its understanding of the matter and the mistake, if any, committed by such authority, can be rectified at subsequent stages of appeal, review, etcetera.

A perusal of the impugned notice discloses that

the second respondent did not refer to any provisions in support of the exercise of powers by him. In clear terms, he expressed his intention to resolve the dispute that arose between the Managing Committee of a Wakf and the purchasers of the lands belonging to the said Wakf. It is only a judicial forum that can undertake such an exercise. In case of the property belongs to Wakf, the Special Tribunal is the forum under Section 83 of the Act. Except where the first respondent makes a request under Section 52 of the Act, the revenue authorities have no role to play under the Act. No reference is made to any requisition or request under Section 52 of the Act. Even assuming that the District Collector is the head of the revenue department, he cannot assume to himself, the powers of adjudication of disputes unless they are conferred under any enactment. Further, the first respondent and the concerned Wakf have already filed O.S.No.136 of 2006 before the Tribunal. When a suit is pending, the administrative authority, even if conferred with the specific powers to undertake administrative adjudication, is required to withhold further steps. Viewed from any angle, the notice issued by the second respondent cannot be sustained in law.

The writ petition is accordingly allowed and the impugned notice and all the consequential proceedings are set aside. There shall be no order as to costs.

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01.02.2007

Note: Issue C.C. in two days.
(B/o
kdl